
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

EMMANUEL RANDLE,

Plaintiff,

versus

WARDEN ALFORD,

Defendant.

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CIVIL ACTION NO. 1:09-CV-166

**MEMORANDUM ORDER ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Emmanuel Randle, proceeding *pro se*, filed this lawsuit pursuant to 42 U.S.C. § 1983. The court previously referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court.

The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends granting defendant's motion to dismiss the claims against him in his official capacity; denying the remainder of defendant's motion to dismiss for failure to state a claim upon which relief may be granted; and granting defendant's motion for a Rule 7 reply.

The court has received the Report and Recommendation, along with the record, pleadings, and all available evidence. No objections were filed to the Report and Recommendation.

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. Defendant's motion to dismiss the

claims against him in his official capacity is **GRANTED**. In all other respects, defendant's motion to dismiss for failure to state a claim is **DENIED**. Defendant's motion for a Rule 7 reply is **GRANTED**. A separate order shall be entered directing plaintiff to file a Rule 7(a) reply.

SIGNED at Beaumont, Texas, this 2nd day of March, 2011.

A handwritten signature in black ink, reading "Marcia A. Crone". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE